

Remarks/Arguments

Claims 1-49 are pending in this application. Applicant has not amended or canceled any claims in this response. A fee for a one (1) month extension is included herewith. Examination on the merits is respectfully requested.

The Examiner has made an election of species requirement under 35 U.S.C. § 121. The Examiner has identified forty-seven (47) species and stated that no claim appears to be generic. A brief telephonic interview took place between the undersigned attorney and the Examiner on August 9, 2006. No agreement was reached regarding any claims, however the Examiner kindly invited Applicant to suggest an alternate species delineation, and to make an election based on Applicant's delineation. Applicant and Applicant's attorney appreciate the Examiner's willingness to consider alternatives in order to move the prosecution of this application forward.

Applicant respectfully reminds the Examiner that, "The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first. This is frequently expressed by saying that claims to be restricted to different species must recite the mutually exclusive characteristics of such species." M.P.E.P. 806.04(f). Many of the features the Examiner seems to be using to delineate species in Applicant's claims are not "mutually exclusive." For example, a display could be included in any of the embodiments of Applicant's invention.

Applicant appreciates the Examiner's desire to limit the scope of initial examination in order to provide for a reasonable amount of searching and examination on the Examiner's part. With that in mind, Applicant submits that there are five species in his application, as follows:

I. An air sampler including a feedback control mechanism using a voltage signal from an integrated airflow sensor to determine a measured airflow, shown in figures 2, 4, 6, 7, 8, and 9, to which claims 1-3, 5, 8-15, and 26-41 are directed;

II. An air sampler including a feedback control mechanism using signals from at least two temperature sensors in an integrated airflow sensor to determine a measured airflow, shown in figures 1, 6, 7, 8, and 9, to which claims 1-4, 8-15, and 26-31 are directed;

III. An air sampler including a mechanical feedback control mechanism, shown in figure 3, to which claims 1, 2, 6, 12, 26, and 27 are directed;

IV. An air sampler including a feedback control mechanism using a digital signal from an integrated airflow sensor to determine a measured airflow, shown in figures 2, 6, 7, 8, and 9, to which claims 1-3, 7-15, and 26-41 are directed.

V. An air sampler with a control system that determines a measured airflow based on signaling from an integrated airflow sensor so that airflow adjustments may be made, shown in figures 1 and 2, to which claims 1, 16-29, and 42-49 are directed.

Applicant submits that claim 1 is generic to all species above. Applicant also submits that claim 2 is generic to all species except species V. However, in the event that the Examiner accepts Applicant's characterization of the species presented above, Applicant elects species I to which claims 1-3, 5, 8-15, and 26-41 are directed for prosecution on the merits. If claim 1 is found not to be allowable, Applicant will restrict this application accordingly. If neither claim 1 nor claim 2 are allowable, Applicant will again restrict this application accordingly.

Applicant notes that claims 32 and 42 are method claims and that claims 37 and 46 are apparatus claims drawn to apparatus that perform the methods recited in claims 32 and 42, respectively. Applicant respectfully reminds the Examiner that under 37 C.F.R. § 1.141(b) particular kinds of claims in different categories may be included in the same application. Generally, claims to an apparatus and a process to be practiced on that apparatus may be examined together without undue burden. For this reason, the claim structure in the provisionally elected species is proper and in accordance with the rules. Furthermore, the apparatus that claim 1 encompasses and is generic to the apparatus of claim 37 and the apparatus of claim 46. Since the methods recited in claims 32 and 42 are methods practiced on that apparatus, claim 1 may be considered generic to method claims 32 and 42 as well. Thus, the method and means-plus-function claims included in Applicant's provisionally elected species should not be subject to any further requirement for election.

Applicant is cognizant of the fact that the Examiner may not agree with the delineation of species presented herein. In that event, then Applicant provisionally elects the Examiner's species to which claims 1-3, 10, 11, and 15 are directed, as described on page 3, in lines 9 and 10 of the office action.

Applicants believe they have responded to the election of species requirement made by the Examiner, and that the application is in condition for substantive examination. Consideration of this application on the merits is hereby requested.

Respectfully submitted,

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